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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,735	04/09/2004	Hirotooshi Tawara	250056US-3DIV	8994
22850	7590	12/02/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			SPISICH, MARK	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,735

Applicant(s)

TAWARA ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

The preliminary amendment filed 9 April 2004 does not indicate the particular relationship between the present application and that of the parent application. **The first sentence of the specification should include a recitation of:** *"This application is a division of application serial no. 09/984,766, filed October 31, 2001, now U.S. patent No. 6,783,600."* Although the reference to the prior foreign applications is not required, it should **follow** the above recitation.

Terminal Disclaimer

1. The terminal disclaimer filed on 29 October 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USP 6,783,600 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claim 6 further describes the "scraping up body" as

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having an **abrasive** surface. There was no prior recitation that the scraping up body was abrasive. Even a brush (which is the preferred embodiment) would not ordinarily be termed abrasive, even though it might be termed more abrasive relative to some other surface. It is further pointed out that page 13 (lines 29-31) of the present specification recites the following: "**..the scraping up body is not limited to the brush, and may be constituted by a sponge, a rubber blade, an elastomer, an elastic projection body or the like**". None of these materials, which are also meant to be encompassed by the broad term "scraping up body", would reasonably be termed or described as abrasive.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The inclusion of the term "abrasive", especially when read in light of the noted passage in the specification, renders the claim indefinite as the particular scope of the term is difficult to ascertain.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1-3,5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2-12363. '363 discloses a cleaning device (21) comprising a frame (23), "scraping up body" (one of 5a or 5b), adhesive roll (15), rotating body (the other of 5a or 5b) wherein the rotating body is disposed in contact with the adhesive roll and rolls with it and further wherein the scraping up body and the rotating body are rotatably supported by the frame and the adhesive roll is arranged to rotate in parallel with the scraping up body and the rotating body. The outer surface of a cylinder is NOT FLAT. The outer periphery of the adhesive roll is disposed in contact with the scraping up body (claim 2) and wherein the adhesive roll includes a rotating shaft (8) which travels along a track (24) in the frame such that the adhesive roller is maintained in contact with the scraping up body and the rotating body (claim 3). With regard to claims 5 and 6 (lines 9-10), the **specification specifically states (page 11, lines 1-3) that the constant distance relation between the adhesive roll and the scraping up body may be zero.** As such, '363 meets this recitation. With regard to the term "abrasive", either of 5a or 5b are abrasive to the extent that the scraping up body is defined on page 13 (lines 29-31).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2-12363 in view of JP 63-163767. '363 discloses the invention substantially as claimed

with the exception of the biasing means. 767 discloses an adhesive roller (2) similar in function to the one of '363 (it also includes a shaft (5) riding in a track (8) in the frame) and further including a biasing means (9). It would have been obvious to one of ordinary skill to have provided such a biasing means to '363 to provide for better engagement between the adhesive roll and the rotating and scraping up bodies.

Response to Arguments

10. Applicant's arguments filed 29 October 2004 have been fully considered but they are not persuasive. With regard to the added recitation in claim 1 that the rotating body has a "surface that is not flat", the outer surface of either 5a or 5b is cylindrical and is thus NOT FLAT. With regard to claims 5 and 6 (lines 9-10), **the constant "distance relation" between the adhesive roll and the scraping up body may be zero** (see page 11, lines 1-3). The adhesive roll (7) of '363 is maintained in contact with both 5a as well as 5b and is disposed for movement along a track (24) in the frame and as such a constant distance (of zero) is maintained there between. With regard to the term "abrasive" in claim 6, **it is pointed out that the term "scraping up body" is intended by applicant to cover surfaces which range from brushes to sponge to elastomer** (see page 13, lines 29-31) and as such the term "abrasive" has been given its broadest reasonable interpretation in light of the specification. With regard to lines 6-13 of page 8 of the "remarks", the mentioned reduction in contact area is not commensurate with the scope of the claims. The claims (namely claim 1) merely recite that the surface of the rotating body is NOT FLAT, which would describe the outer surface of a cylinder (which describes the shape of both 5a and 5b in '363). The mode of operation of '363

and '767 **is quite evident from the drawings therein**. The adhesive roll (7) of '363 includes a shaft (8) which travels in a channel (24) formed in the frame such that the roll remains in contact with the scraping up body and the rotating body (5a,5b). The roll (2) of '767 similarly includes a shaft (5) which travels in a channel (8) in the frame and is further maintained in contact with the roll or "scraping up body" (3) with a biasing means (9). Also, the claims do not preclude either the scraping up body or the rotating body from having an adhesive character too. Applicant comment on page 9 of the "remarks" that the diameter of the scraping up body is larger than the diameter of the tires is noted; however, there is no corresponding recitation in the claims.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS